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OFFICE OF PETITIONS

In re Patent No. 6,897,517 :

Issue Date: 24 May, 2005 :

Application No. 10/603,426 :

Filed: 24 June, 2003 :

Attorney Docket No. IMEC279.001AUS :

ON PETITION

This is a decision on the petition filed on 26 July, 2011, pursuant to 37 C.F.R. §1.183 and §3.81(b) to correct, *inter alia*, the name of the assignee on the front page of the above-identified patent by way of a certificate of correction under 37 C.F.R. §1.323.

NOTE:

Petitioner avers recordation of assignment in the instant application (Application No. 10/603,426, issued as Patent No. 6,897,517 on 24 May, 2005), however, the recordation(s) of what Petitioner referred to as "a confirmatory assignment" of what Petitioner termed "a clerical error in the [original] assignment" was not recorded until 9 May, 2011.

The petition is **DISMISSED**.

ANALYSIS

Congress has authorized the issuance of patents in the name(s) of the assignee(s):

35 U.S.C. §152 Issue of patent to assignee.

Patents may be granted to the assignee of the inventor of record in the Patent and Trademark Office, upon the application made and the specification sworn to by the inventor, except as otherwise provided in this title. (Emphasis supplied.)

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The regulations at 37 C.F.R. §3.81 that set forth the applicable procedure:

§ 3.81 Issue of patent to assignee.

(b) *After payment of the issue fee:* An application may issue in the name(s) of the assignee(s) consistent with the application's assignment where a request for such issuance along with the processing fee set forth in § 1.17(I) of this chapter is submitted after the date of payment of the issue fee, but prior to issuance of the patent, provided the assignment has been previously recorded in the Office. If the assignment has not been previously recorded, the request should be accompanied by the assignment and either a direction to record the assignment in the Office pursuant to §3.28, or a statement under §3.73(b).

(c) *Partial assignees.*

(2) If multiple assignees hold the entire right, title, and interest to the exclusion of all the inventors, the patent may issue in the names of the multiple assignees. (Emphasis supplied.)

The commentary at MPEP §1481.01 provides that:

1481.01 Correction of Assignees' Names [R-3]

Any request for the issuance of an application in the name of the assignee submitted after the date of payment of the issue fee *** must:

- (A) state that the assignment was submitted for recordation as set forth in 37 C.F.R. §3.11 before issuance of the patent;
 - (B) include a request for a certificate of correction under 37 C.F.R. §1.323 along with the fee set forth in 37 C.F.R. §1.20(a); and
 - (C) include the processing fee set forth in 37 C.F.R. §1.17(i).
- See 37 C.F.R. §3.81(b).

Petitioner has submitted a form for correction, but appears that Petitioner has not satisfied the requirement that the recordation predate issue.


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CONCLUSION

Accordingly, the petition is dismissed.

The file is released to IFW Files Repository.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2¹) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).


/ John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

¹ The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.